

121 FERC ¶ 61,314  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

December 31, 2007

In Reply Refer To:  
Saltville Gas Storage Company L.L.C.  
Docket No. RP05-157-008

Saltville Gas Storage Company L.L.C.  
P.O. Box 1642  
Houston, Texas 77251-1642

Attention: David A. McCallum, Director  
Rates and Tariffs

Reference: Non-Conforming Negotiated Rate Service Agreement

Mr. McCallum:

1. On December 7, 2007, Saltville Gas Storage Company L.L.C. (Saltville) filed a tariff sheet<sup>1</sup> to reflect the essential elements of a negotiated rate agreement with Carolina Power & Light Company, d.b.a. Progress Energy Carolinas, Inc. (Carolina) for firm storage service under Rate Schedule FSS. Saltville also states that Carolina's service agreement includes deviations from its *pro forma* firm storage service agreement. Therefore, Saltville filed the service agreement and accompanying negotiated rate letter agreement to comply with Commission regulations requiring pipelines to file any contract that deviates materially from the *pro forma* service agreement.<sup>2</sup> In addition, Saltville filed another tariff sheet<sup>3</sup> listing the Carolina service agreement as non-conforming. Finally, Saltville requests waiver of the Commission's thirty-day notice

---

<sup>1</sup> Original Sheet No. 20. Saltville also filed a tariff sheet to reserve sheets for future use, Sheet Nos. 21-30.

<sup>2</sup> 18 C.F.R §§ 154.1(d) and 154.110 (2007).

<sup>3</sup> Original Sheet No. 112B.

requirement to permit the tariff sheets and service agreement to become effective October 1, 2007. Waiver is granted, and as discussed in more detail below, two of the tariff sheets are accepted subject to conditions, one is rejected as moot, and the subject service agreement is accepted effective October 1, 2007, subject to conditions.

2. Public notice of the filing was issued on December 11, 2007. Interventions and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2007)). Pursuant to Rule 214, 18 C.F.R. § 385.214, all timely motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. No adverse comments or protests were filed.

3. In its transmittal letter, Saltville states that the deviations contained in the service agreement, with one exception, are immaterial in nature, as they do not go beyond the filling-in of the spaces in the form of service agreement with the appropriate information provided for in the tariff and do not affect the substantive rights of the parties.<sup>4</sup> Saltville elaborates that the more substantive material deviation is the provision in Exhibit A of the service agreement that the service is a seasonal, summer-only service provided each year during the period April 1 to October 31, and that during October of each year Carolina must remove all gas from its storage balance.

4. Saltville notes that the Commission's policy is that material deviations may be acceptable if such deviations do not change the conditions under which service is provided and do not present a risk of undue discrimination.<sup>5</sup> Saltville submits that the agreement for a summer-only service reflects Carolina's desire for multi-cycle storage service during the summer period and is beneficial to all of Saltville's customers because it allows for additional usage during a period of the year when overall usage on Saltville's facilities is reduced. Saltville submits that in these unique circumstances permitting seasonal service on the system is appropriate and does not provide a risk of undue discrimination. Accordingly, Saltville requests that, to the extent the Commission finds the service agreement to be non-conforming, the Commission accept the agreement for filing and grant any and all waivers necessary to allow the service agreement to be effective as of its effective date.

5. Saltville states in the instant filing that it does not offer a summer-only storage service under Rate Schedule FSS. Thus, it is clear that the summer-only service included in the Carolina service agreement is a material deviation from Saltville's tariff and form

---

<sup>4</sup> Saltville cites *Natural Gas Pipeline Negotiated Rate Policies and Practices*, 104 FERC ¶ 61,134 (2003), *order on reh'g*, 114 FERC ¶ 61,042 (2006) (Negotiated Rate Policy Statement).

<sup>5</sup> Saltville cites the Negotiated Rate Policy Statement at P 27.

of service agreement. The Commission only approves such material deviations, if the deviation does not present a risk of undue discrimination among the pipeline's customers.<sup>6</sup> The Commission has found that negotiated terms and conditions of service different from those included in the pipeline's tariff generally do present a significant risk of discrimination and thus must be prohibited. Seasonal service is such a term and condition of service, and therefore the Commission has held that seasonal service can only be offered pursuant to generally applicable conditions set forth in the pipeline's tariff.<sup>7</sup> Saltville has not offered any reason why it cannot offer a summer-only storage service pursuant to generally applicable tariff provisions.

6. Accordingly, the Commission accepts the Carolina service agreement, subject to the condition that, within 30 days, Saltville revise its tariff and *pro forma* form of service agreement for Rate Schedule FSS service in order to offer such summer-only firm storage service to similarly situated shippers on a not unduly discriminatory basis. Such a revision of Saltville's form of service agreement and tariff will render the service agreement with Carolina to be conforming. Accordingly, Original Sheet No. 112B listing the agreement as non-conforming is rejected as moot. Original Sheet No. 20 setting forth the essential elements of the negotiated rate, including the summer-only nature of the service, and Sheet Nos. 21-30 are accepted subject to Saltville revising Original Sheet No. 20 consistent with this order within 30 days.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

cc: All Parties  
Public File

---

<sup>6</sup> *Columbia Gas Transmission Corp.*, 97 FERC ¶ 61,221 at 62,003-4 (2001).

<sup>7</sup> *Granite State Gas Transmission, Inc.*, 112 FERC ¶ 61,201 at P 4 (2005).